IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

PATENT APPLICATION

Applellants:	**Hendricks et al.**	Case:	**SEDN/3698.D5**
Serial No.:	**09/964,890**	Examiner:	**Sheleheda, James R.**
Filed:	**09/28/01**	Group Art Unit:	**2623**

Confirmation #: **2106**

Title: **INTERACTIVE ELECTRONIC PROGRAM GUIDE FOR USE WITH TELEVISION DELIVERY SYSTEM**

MAIL STOP APPEAL BRIEF-PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

APPEAL BRIEF

Appellants submit this Appeal Brief to the Board of Patent Appeals and Interferences on appeal from the decision of the Examiner of Group Art Unit 2623 dated March 7, 2007 finally rejecting claims 1-23.

In the event that an extension of time is required for this appeal brief to be considered timely, and a petition therefor does not otherwise accompany this appeal brief, any necessary extension of time is hereby petitioned for.

The Commissioner is authorized to charge the Appeal Brief fee ($500) and any other fees due to make this filing timely and complete (including extension of time fees) to Deposit Account No. 20-0782/SEDN/3698D5.

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Real Party in Interest

The real party in interest is SEDNA PATENT SERVICES, LLC.

Related Appeals and Interferences

Appellants assert that no appeals or interferences are known to Appellants, Appellants' legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

Status of Claims

Claims 1-23 are pending in the application. Claims 1-23 were originally presented in the application. Claims 1-3, 8, 22 and 23 have been amended. Claims 1-23 stand finally rejected as discussed below. The final rejection of claims 1-23 is appealed.

Status of Amendments

All claim amendments have been entered.

Summary of Claimed Subject Matter

Embodiments of the present invention generally are directed to an interactive electronic program guide that utilizes a split screen technique to simultaneously display a plurality of digitally compressed video clips. (See e.g., Appellants' specification, p. 30, II. 14-25). A masking methodology is used to mask unwanted video clip portions of the split screen. (See *Id.*). The masking methodology provides the least expensive method because it does not require any special hardware and it increases video throughput to the set top terminal. (See *Id.*).

For the convenience of the Board of Patent Appeals and Interferences, Appellants' independent claims 1, 8, 22 and 23 are presented below in claim format with elements read on the various figures of the drawings and appropriate citations to at least one portion of the specification for each element of the appealed claims.

Claim 1 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

1.   (previously presented) An interactive electronic program guide for display on a television (222) for use with a television delivery system (200) comprising a set top terminal (220), the guide comprising:

a home menu (1010) (see e.g., Appellants' specification, p. 47, l. 3 – p. 49, l. 25);

a plurality of major menus (1020) displayed as menu options on the home menu (1010) (see e.g., Appellants' specification, p. 47, l. 3 – p. 49, l. 25);

a plurality of sub-menus displayed (1050) as menu options on the plurality of major menus (1020) (see e.g., Appellants' specification, p. 47, l. 3 – p. 49, l. 25);

a plurality of during programming menus (1200) enacted after selection of a program (see e.g., Appellants' specification, p. 47, l. 3 – p. 49, l. 25);

a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally

compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video (see e.g., Appellants' specification, p. 30, ll. 14-25); and

a cursor highlight overlay (858) to indicate the position of a cursor on at least one of the menus (1010, 1020, 1050, 1200) wherein the cursor highlight overlay (858) is movable in response to pressing of cursor movement buttons (See e.g., Appellants' specification, p. 43, ll. 20-21) by a user, and wherein a second graphic representing the cursor highlight overlay (858) is stored in a second graphics file (850) in the memory (620) of the set top terminal (220),

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask (see Parent U.S. Application Ser. No. 07/791,074, p. 120, ll. 12-22).

Claim 8 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

8. (previously presented) A interactive menu system for display on a television (222) in conjunction with television programming and a set top terminal (220), the menu system comprising:

a logo that is displayed on a television during a program having one or more interactive features (see e.g., Appellants' specification, p. 52, l. 26 – p. 53, l. 14; FIG. 22);

a plurality of menus (see e.g., Appellants' specification, p. 53, ll. 15-20; FIG. 17e) including an overlay menu (1390) that is displayed during the program, the overlay menu (1390) including the interactive features (see e.g., Appellants' specification, p. 49, ll. 14-23, p. 52, ll. 27-30);

a mask to mask portions of a digitally compressed video, wherein

the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video (see e.g., Appellants' specification, p. 30, ll. 14-25); and

a cursor highlight overlay (858) to indicate the position of a cursor on at least one of the menus (see e.g., Appellants' specification, p. 53, ll. 15-20; FIG. 17e) wherein the cursor highlight overlay (858) is movable in response to pressing of cursor movement buttons (See e.g., Appellants' specification, p. 43, ll. 20-21) by a user, and wherein a second graphic representing the cursor highlight overlay (858) is stored in a second graphics file (850) in the memory (620) of the set top terminal (220),

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask (see Parent U.S. Application Ser. No. 07/791,074, p. 120, ll. 12-22), and

wherein the logo indicates to a user that the interactive features are available for the program, and wherein the overlay menu is displayed in response to a signal received from a user input (see e.g., Appellants' specification, p. 52, l. 26 – p. 53, l. 14; FIG. 22).

Claim 22 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

22.   (previously presented) An interactive electronic program guide for controlling display of content on a television (222) associated with a set top terminal (220), the guide comprising:

a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection (see e.g., Appellants' specification, p. 53, ll. 15-20; FIG. 17e);

a main menu (see e.g., Appellants' specification, FIG. 17e) having one or more main menu items for selection, which main menu items correspond to the interactive menus;

a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the video (see e.g., Appellants' specification, p. 30, ll. 14-25); and

a cursor highlight overlay (858) to indicate the position of a cursor on at least one of the menus (see e.g., Appellants' specification, p. 53, ll. 15-20; FIG. 17e) wherein the cursor highlight overlay (858) is movable in response to pressing of cursor movement buttons (See e.g., Appellants' specification, p. 43, ll. 20-21) by a user, and wherein a second graphic representing the cursor highlight overlay (858) is stored in a second graphics file (850) in the memory (620) of the set top terminal (220),

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask (see Parent U.S. Application Ser. No. 07/791,074, p. 120, ll. 12-22), and

wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input (see e.g., Appellants' specification, p. 53, l. 15 – p. 54, l. 9).

Claim 23 positively recites (with reference numerals, where applicable and cites to at least one portion of the specification added):

23.   (previously presented) A set top terminal (220) for generating an interactive electronic program guide for display on a television (222) connected to the set top terminal (220), the terminal comprising:

means for retrieving information about a subscriber (214) (see e.g., Appellants' specification, p. 11, II. 13-17, p. 13, II. 29-30);

means for receiving a television signal (220);

means for extracting individual programs from the television signal (220);

means for storing a first graphics file and a second graphics file;

means for generating an electronic program guide (220) for controlling display of content on a television screen (222), the guide comprising:

a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection (see e.g., Appellants' specification, p. 53, II. 15-20; FIG. 17e);

a main menu (see e.g., Appellants' specification, FIG. 17e) having one or more main menu items for selection, which main menu items correspond to the interactive menus, wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input (see e.g., Appellants' specification, p. 53, I. 15 – p. 54, I. 9);

a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in the first graphics file, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video (see e.g., Appellants' specification, p. 30, II. 14-25); and

a cursor highlight overlay (858) to indicate the position of a cursor on at least one of the menus (1010, 1020, 1050, 1200) wherein the cursor highlight overlay (858) is movable in response to pressing of cursor movement buttons (See e.g., Appellants' specification, p. 43, II. 20-21) by a user, and wherein a second graphic representing the cursor highlight overlay (858) is stored in a second graphics file (850) in the memory (620) of the set top terminal (220),

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask (see Parent U.S. Application Ser. No. 07/791,074, p. 120, ll. 12-22); and

means for receiving the selection signals from the user input (220).

Grounds of Rejection to be Reviewed on Appeal

The Examiner has rejected claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,477,262 to Banker et al. (hereinafter "Banker") in view of U.S. Patent 5,404,393 to Remillard (hereinafter "Remillard"), U.S. Patent 4,975,771 to Kassatly (hereinafter "Kassatly") and U.S. Patent 5,467,144 to Saeger (hereinafter "Saeger."

The Examiner has rejected claims 8-21 under 35 U.S.C. §103(a) as being unpatentable over Banker in view of U.S. Patent 5,539,871 to Gibson (hereinafter "Gibson"), Remillard, Kassatly and Saeger.

The Examiner has rejected claims 1 and 7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,410,326 to Goldstein in view of Banker, Remillard, Kassatly and Saeger under 35 U.S.C. §103(a).

The Examiner has rejected claims 2-6 under 35 U.S.C. §103(a) as being unpatentable over Goldstein, Banker, Remillard, Kassatly and Saeger, as applied to claim 1 above, and further in view of U.S. Patent 5,047,867 to Strubbe et al. (hereinafter "Strubbe").

ARGUMENTS

I. THE EXAMINER ERRED IN REJECTING CLAIMS 1-23 UNDER 35 U.S.C. §103(A) BECAUSE THE EXAMINER FAILED TO ESTABLISH A *PRIMA FACIE* CASE OF OBVIOUSNESS

A. Claims 22 and 23

The Examiner has rejected claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,477,262 to Banker in view of Remillard, Kassatly and Saeger. Appeal of this rejection is requested.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP § 2143.

The Examiner failed to establish a *prima facie* case of obviousness because there is no suggestion or motivation to combine Kassalty and Saeger because Kassalty and Saeger <u>teach away</u> from one another and cannot be meaningfully combined. Specifically, Kassatly teaches that multiplexed signals are transmitted in a packet form to a reception unit. (See Kassatly, col. 2, ll. 40-44.) When a desired channel is selected, <u>only the signals of that selected channel are decompressed, reconstructed and displayed</u>. (See *Id.* at ll. 45-59, emphasis added.) If the particular channel has not been selected, then the stored signals for that particular channel are <u>automatically erased</u> in preparation for storage of the next signals. (See *Id.*, emphasis added.)

Saeger is cited as a reference for teaching picture-in-picture with multiple channels available for viewing simultaneously. (See Saeger, Figs. 1(d) – (i)).

Notably, to be able to view multiple channels simultaneously, multiple signals must be transmitted, decompressed and reconstructed for display.

The Appellants respectfully submit that Kassatly cannot be modified using the teachings of Saeger that would teach the limitation of wherein the video comprises digitally compressed plurality of video clips which are transmitted simultaneously on a single channel using split screen video. Kassatly explicitly teaches that only the selected channel of the multiplexed signals are decompressed, reconstructed and displayed and that <u>the remaining signals are erased</u>. Therefore, Kassatly does not teach the ability to use the simultaneously transmitted video signals for use in split screen video because split screen video requires the display of at least two video signals. Therefore, Kassatly and Saeger cannot be meaningfully combined.

In addition, the Examiner failed to establish a *prima facie* case of obviousness because Banker, Remillard, Kassatly and Saeger, alone or in any permissible combination, fail to teach or suggest all the claim limitations. The Appellants' claim 22 recites:

> 22.   An interactive electronic program guide for controlling display of content on a television associated with a set top terminal, the guide comprising:
>   a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection;
>   a main menu having one or more main menu items for selection, which main menu items correspond to the interactive menus;
>   <u>a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video</u>; and
>   a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is movable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal,

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask, and
wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input. (Emphasis added).

Specifically, Banker fails to teach or suggest at least "a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video" as recited in independent claim 22.

First, the Appellants respectfully submit that Banker does not teach or suggest the limitation of "a mask to mask portions of a digitally compressed video". Banker teaches that there are two modes of on-screen display. The first mode is a plain background mode and the second mode is an overlay mode. (See Banker, col. 12, l. 62 – col. 13, l. 12.) Banker specifically teaches that the on-screen display are <u>characters</u> and not a <u>mask</u> as taught by the Appellants' invention. (See *Id.*, emphasis added.) This is supported further by the Figures illustrated in Banker showing the characters on a solid background. (See Banker, FIGs. 13A – 19E.)

The Appellants recognize that the Examiner is permitted to interpret the reference broadly. Therefore, even if the Examiner is interpreting the characters used as an overlay as being equivalent to the mask taught by the Appellants' invention, Banker still fails to teach or suggest that only <u>portions</u> of the video are masked. The Examiner asserts that the background mode covering every portion of video reads on the above limitation. (See Final Office Action, p. 3, l. 2-4.) However, the Appellants' respectfully submit that one skilled in the art will recognize that "portions" is defined as something less than the entire video. For example, dictionary.com defines "portion" as being "a part of any whole." (See dictionary.com.) Consequently, a background mode covering <u>every portion of</u>

video would no longer be a "portion," but rather the entire video. Therefore, a background mode covering <u>every portion of video</u> cannot be equivalent to only masking <u>portions</u> of the video, as taught by the Appellants' invention.

Remillard fails to bridge the substantial gap between Banker and Appellants' invention. In particular, Remillard discloses an electronic device that "provides for windowed display of the menu (i.e. the windowed display providing menus overlaying a portion of a conventional television broadcast, for example) and construction of a viewing profile, among other things." (column. 5, lines 56-61). Remillard is silent with respect to a mask as claimed.

Furthermore, Banker and Remillard fail to teach or suggest wherein the video comprises digitally compressed plurality of video clips which are transmitted simultaneously on a single channel using split screen video. The Examiner concedes this in the Office Action. (See Final Office Action, p. 3, ll. 16-20.) However, the Examiner alleges that Kassatly and Saeger bridge the substantial gap left by the Appellants' invention.

Kassatly and Saeger fail to bridge the substantial gap left by the Appellants' invention because 1) Kassatly and Saeger cannot be meaningfully combined; and 2) Kassatly and Saeger fail to teach or suggest <u>a mask to mask portions of a digitally compressed video</u>. As discussed above, Kassatly and Saeger cannot be meaningfully combined because Kassatly and Saeger <u>teach away</u> from one another. Kassatly cannot be modified using the teachings of Saeger that would teach the limitation of wherein the video comprises digitally compressed plurality of video clips which are transmitted simultaneously on a single channel using split screen video.

In addition, Kassatly and Saeger fail to teach or suggest <u>a mask to mask portions of a digitally compressed video</u>. Therefore, the combination of Banker, Remillard, Kassatly and Saeger fail to render obvious Appellants' independent claim 22.

Therefore, claim 22 is patentable over Banker, Remillard, Kassatly and Saeger under 35 U.S.C. 103(a). Furthermore, dependent claim 23 depends from independent claim 22 and recites additional limitations thereof. As such and for

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at least the same reasons discussed above with respect to claim 22, Appellants respectfully submit that dependent claim 23 is also not obvious in view of Banker, Remillard, Kassatly and Saeger and are allowable under 35 U.S.C. §103. Therefore, Appellants respectfully request that the rejection be withdrawn.

B.   Claims 8-21

The Examiner has rejected claims 8-21 under 35 U.S.C. §103(a) as being unpatentable over Banker in view of Gibson, Remillard, Kassatly and Saeger. Appeal of this rejection is requested.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP § 2143.

The Examiner failed to establish a *prima facie* case of obviousness because there is no suggestion or motivation to combine Kassalty and Saeger because Kassalty and Saeger teach away from one another and cannot be meaningfully combined. Specifically, Kassatly teaches that multiplexed signals are transmitted in a packet form to a reception unit. (See Kassatly, col. 2, ll. 40-44.) When a desired channel is selected, only the signals of that selected channel are decompressed, reconstructed and displayed. (See *Id.* at ll. 45-59, emphasis added.) If the particular channel has not been selected, then the stored signals for that particular channel are automatically erased in preparation for storage of the next signals. (See *Id.*, emphasis added.)

Saeger is cited as a reference for teaching picture-in-picture with multiple channels available for viewing simultaneously. (See Saeger, Figs. 1(d) – (i)). Notably, to be able to view multiple channels simultaneously, multiple signals must be transmitted, decompressed and reconstructed for display.

The Appellants respectfully submit that Kassatly cannot be modified using the teachings of Saeger that would teach the limitation of wherein the video comprises digitally compressed plurality of video clips which are transmitted simultaneously on a single channel using split screen video. Kassatly explicitly teaches that only the selected channel of the multiplexed signals are decompressed, reconstructed and displayed and that the remaining signals are erased. Therefore, Kassatly does not teach the ability to use the simultaneously transmitted video signals for use in split screen video because split screen video requires the display of at least two video signals. Therefore, Kassatly and Saeger cannot be meaningfully combined.

In addition, the Examiner failed to establish a *prima facie* case of obviousness because Banker, Gibson, Remillard, Kassatly and Saeger, alone or in any permissible combination, fail to teach or suggest all the claim limitations. Appellants' independent claim 8 recites:

> 8.   A interactive menu system for display on a television in conjunction with television programming and a set top terminal, the menu system comprising:
>
> a logo that is displayed on a television during a program having one or more interactive features;
>
> a plurality of menus including an overlay menu that is displayed during the program, the overlay menu including the interactive features;
>
> a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video; and
>
> a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is movable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal,
>
> wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask, and

wherein the logo indicates to a user that the interactive features are available for the program, and wherein the overlay menu is displayed in response to a signal received from a user input. (Emphasis added.)

For at least the reasons discussed above, Banker, Remillard, Kassatly and Saeger alone or in combination fail to teach or suggest Appellants' invention as a whole. Gibson fails to bridge the substantial gap between Banker, Remillard, Kassatly and Saeger and Appellants' invention.

Specifically, Gibson also fails to teach or suggest at least "a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video" as recited in claim 8.

Gibson discloses a "method and system in a data processing system for selectively associating stored data with an animated element within a multimedia presentation in a data processing system" (abstract). However, Gibson does not teach or suggest at least <u>a mask to cover undesired video clips of a video</u>. In addition, Gibson also fails to teach or to suggest wherein <u>the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques</u>.

As such, Appellants' independent claim 8 is patentable under 35 U.S.C. §103(a) over Banker in view of Gibson, Remillard, Kassatly and Saeger. Furthermore, claims 9-21 depend, directly or indirectly from independent claim 8, while adding additional elements. Therefore, 9-21 also are non-obvious and patentable under 35 U.S.C. §103(a) over Banker in view of Gibson, Remillard, Kassatly and Saeger for at least the same reasons that claim 8 is patentable over Banker in view of Gibson, Remillard, Kassatly and Saeger under §103. Therefore, Appellants respectfully request that the Examiner's rejection be withdrawn.

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C.   Claims 1 and 7

The Examiner has rejected claims 1 and 7 under 35 U.S.C. §103(a) as being unpatentable over Goldstein in view of Banker, Remillard, Kassatly and Saeger under 35 U.S.C. §103(a). Appeal of this rejection is requested.

The Examiner bears the initial burden of establishing a *prima facie* case of obviousness. *See* MPEP § 2142. To establish a *prima facie* case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP § 2143.

The Examiner failed to establish a *prima facie* case of obviousness because there is no suggestion or motivation to combine Kassalty and Saeger because Kassalty and Saeger teach away from one another and cannot be meaningfully combined. Specifically, Kassatly teaches that multiplexed signals are transmitted in a packet form to a reception unit. (See Kassatly, col. 2, ll. 40-44.) When a desired channel is selected, only the signals of that selected channel are decompressed, reconstructed and displayed. (See *Id.* at ll. 45-59, emphasis added.) If the particular channel has not been selected, then the stored signals for that particular channel are automatically erased in preparation for storage of the next signals. (See *Id.*, emphasis added.)

Saeger is cited as a reference for teaching picture-in-picture with multiple channels available for viewing simultaneously. (See Saeger, Figs. 1(d) – (i)). Notably, to be able to view multiple channels simultaneously, multiple signals must be transmitted, decompressed and reconstructed for display.

The Appellants respectfully submit that Kassatly cannot be modified using the teachings of Saeger that would teach the limitation of wherein the video comprises digitally compressed plurality of video clips which are transmitted simultaneously on a single channel using split screen video. Kassatly explicitly

teaches that only the selected channel of the multiplexed signals are decompressed, reconstructed and displayed and that the remaining signals are erased. Therefore, Kassatly does not teach the ability to use the simultaneously transmitted video signals for use in split screen video because split screen video requires the display of at least two video signals. Therefore, Kassatly and Saeger cannot be meaningfully combined.

In addition, the Examiner failed to establish a *prima facie* case of obviousness because Goldstein, Banker, Remillard, Kassatly and Saeger, alone or in any permissible combination, fail to teach or suggest all the claim limitations. Appellants' claim 1 recites:

> 1. An interactive electronic program guide for display on a television for use with a television delivery system comprising a set top terminal, the guide comprising:
> a home menu;
> a plurality of major menus displayed as menu options on the home menu;
> a plurality of sub-menus displayed as menu options on the plurality of major menus;
> a plurality of during programming menus enacted after selection of a program;
> a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video; and
> a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is movable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal,
> wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask.
> (Emphasis added).

For at least the reasons discussed above, Banker, Remillard, Kassatly and Saeger alone or in combination fail to teach or suggest Appellants' invention

as a whole. Goldstein fails to bridge the substantial gap between Banker, Remillard, Kassatly and Saeger and Appellants' invention as claimed in claim 1.

Specifically, Goldstein also fails to teach or suggest at least "a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video" as recited in the claim.

The Goldstein reference discloses a "universal remote control device which is programmed to operate a variety of consumer products" (Abstract). However, Goldstein does not teach or suggest a mask to mask a video. Furthermore, Goldstein fails to teach or to suggest wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques.

As such, Appellants' independent claim 1 is patentable under 35 U.S.C. §103(a) over Goldstein in view of Banker, Remillard, Kassatly and Saeger. Furthermore, claim 7 depends directly from independent claim 1, while adding additional elements. Therefore, claim 7 also is patentable under 35 U.S.C. §103 over Goldstein in view of Banker, Remillard, Kassatly and Saeger for at least the same reasons that claim 1 is patentable under 35 U.S.C. §103 over Goldstein in view of Banker, Remillard, Kassatly and Saeger. Therefore, Appellants respectfully request that the Examiner's rejection be withdrawn.

D.   Claims 2-6

The Examiner has rejected claims 2-6 under 35 U.S.C. §103(a) as being unpatentable over Goldstein, Banker, Remillard, Kassatly and Saeger, as applied to claim 1 above, and further in view of Strubbe. Appeal of this rejection is requested.

Each of the grounds of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. §103 for the

corresponding independent claims. Since the rejection of the corresponding independent claims under 35 U.S.C. §103 has been overcome, as described hereinabove, and there is no argument put forth by the Office that any other additional references supply that which is missing from Goldstein, Banker, Remillard, Kassatly and Saeger to render the independent claims unpatentable, these grounds of rejection cannot be maintained. Therefore, Appellants respectfully request that the Examiner's rejection be withdrawn.

CONCLUSION

Thus, Appellants submit that all of the claims presently in the application are allowable under the provisions of 35 U.S.C. §103(a).

For the reasons advanced above, Appellants respectfully urge that the rejections of claims 1-23 are improper. Reversal of the rejections of the Final Office Action is respectfully requested.

Respectfully submitted,

_8/29/07_

Date

Eamon J. Wall
Registration No. 39,414
PATTERSON & SHERIDAN, L.L.P.
595 Shrewsbury Ave. Suite 100
Shrewsbury, NJ 07702
Telephone: (732) 530-9404
Facsimile: (732) 530-9808
Attorney for Appellant(s)

CLAIMS APPENDIX

1.   (previously presented) An interactive electronic program guide for display on a television for use with a television delivery system comprising a set top terminal, the guide comprising:

a home menu;

a plurality of major menus displayed as menu options on the home menu;

a plurality of sub-menus displayed as menu options on the plurality of major menus;

a plurality of during programming menus enacted after selection of a program;

a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video; and

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is movable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal,

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask.

2.   (previously presented) The guide of claim 1, further comprising:

an introductory menu that is displayed upon beginning use of the guide,

wherein at least one of the menus of the guide comprises video, graphics and text demultiplexed from a signal received over the television delivery system, and wherein at least one of the of menus of the guide comprises a version of the

demultiplexed video which is scaled and repositioned.

3.   (previously presented) The guide of claim 2, wherein the guide is controlled by a set top terminal, and wherein the introductory menu automatically appears on the television screen when the set top terminal is turned on; and

wherein the guide further comprises:

a channels query menu for querying a user to determine a plurality of the user's favorite channels;

a programs query menu for querying a user to determine a plurality of the user's favorite programs;

at least one favorite channels menu displaying at least some of the plurality of favorite channels; and

at least one favorite programs menu displaying at least some of the plurality of favorite programs.

4.   (original) The guide of claim 2, wherein introductory menu displays information or messages from a television delivery system operations center that provides programming.

5.   (original) The guide of claim 4, wherein the information or messages are directed to a particular subscriber.

6.   (original) The guide of claim 4, wherein the information or messages are directed to a group of subscribers.

7.   (original) The guide of claim 1, wherein the during program menus comprise hidden menus and program overlay menus.

8.   (previously presented) A interactive menu system for display on a television in conjunction with television programming and a set top terminal, the menu system comprising:

a logo that is displayed on a television during a program having one or more interactive features;

a plurality of menus including an overlay menu that is displayed during the program, the overlay menu including the interactive features;

a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video; and

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is movable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal,

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask, and

wherein the logo indicates to a user that the interactive features are available for the program, and wherein the overlay menu is displayed in response to a signal received from a user input.

9.   (original) The system of claim 8, wherein the overlay menu includes menu options for a plurality of interactive features.

10.   (original) The system of claim 9, wherein the overlay menu further includes a menu option to return to the program without the interactive features.

11.   (original) The system of claim 9, further comprising a cursor that indicates one of the menu options, wherein the cursor is controlled by the user input.

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12.   (original) The system of claim 9, wherein the interactive features include quizzes, facts, or products, related to the program.

13.   (original) The system of claim 9, further comprising a plurality of interactive submenus for use with the interactive features, which submenus are displayed in response to a selection of the menu items, the selection being received from the user input.

14.   (original) The system of claim 13, wherein the submenus are displayed in a video window in a scaled-down program video format.

15.   (original) The system of claim 13, wherein the program and one or more of the submenus are displayed on the television at the same time.

16.   (original) The system of claim 8, wherein the logo is displayed as an overlay menu.

17.   (original) The system of claim 8, wherein the logo is displayed by a set top terminal associated with the television, and wherein the set top terminal determines whether there, is data or information about the program to be displayed as the one or more interactive features and displays the logo if there is data or information.

18.   (original) The system of claim 17, wherein the set top terminal generates an overlay menu including the logo.

19.   (original) The system of claim 8, wherein the overlay menu is generated by a set top converter using data received during a vertical blanking interval.

20.   (original) The system of claim 8, wherein the logo is displayed in a comer of a screen of the television periodically for a specified duration.

21.   (original) The system of claim 20, wherein the logo is displayed for fifteen seconds during a plurality often-minute segments of the program.

22.   (previously presented) An interactive electronic program guide for controlling display of content on a television associated with a set top terminal, the guide comprising:

a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection;

a main menu having one or more main menu items for selection, which main menu items correspond to the interactive menus;

a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in a first graphics file in a memory of the set top terminal, wherein the first graphic is adjusted to cover undesired portions of the video; and

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is movable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in a second graphics file in the memory of the set top terminal,

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask, and

wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input.

23.   (previously presented) A set top terminal for generating an interactive electronic program guide for display on a television connected to the set top

terminal, the terminal comprising:

means for retrieving information about a subscriber;

means for receiving a television signal;

means for extracting individual programs from the television signal;

means for storing a first graphics file and a second graphics file;

means for generating an electronic program guide for controlling display of content on a television screen, the guide comprising:

a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection;

a main menu having one or more main menu items for selection, which main menu items correspond to the interactive menus, wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input;

a mask to mask portions of a digitally compressed video, wherein the digitally compressed video comprising a plurality of digitally compressed video clips sent simultaneously on a single channel using split screen video techniques and a first graphic representing the mask is stored in the first graphics file, wherein the first graphic is adjusted to cover undesired portions of the digitally compressed video; and

a cursor highlight overlay to indicate the position of a cursor on at least one of the menus, wherein the cursor highlight overlay is movable in response to pressing of cursor movement buttons by a user, and wherein a second graphic representing the cursor highlight overlay is stored in the second graphics file,

wherein the cursor highlight overlay is displayed over the at least one of the menus which is displayed over the mask; and

means for receiving the selection signals from the user input.

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EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.